

# Exhibit C



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# Transcript of Kelly Bate, Continued

**Date:** September 23, 2022

**Case:** Fluor Federal Solutions, LLC -v- Bae Systems Ordnance Systems, Inc.

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Transcript of Kelly Bate, Continued  
September 23, 2022

1 (1 to 4)

1	3
1 IN THE UNITED STATES DISTRICT COURT	1 A P P E A R A N C E S
2 FOR THE WESTERN DISTRICT OF VIRGINIA	2 ON BEHALF OF THE PLAINTIFF:
3 Roanoke Division	3 NED PARROTT, ESQUIRE
4 - - - - -x	4 WATT, TIEDER, HOFFAR & FITZGERALD, LLP
5 FLUOR FEDERAL :	5 1765 Greensboro Station Place
6 SOLUTIONS, LLC, :	6 Suite 1000
7 Plaintiff, : Civil Action No.	7 McLean, VA 22102
8 v. : 7:19-CV-00698-EKD-RSB	8 (703) 749-1000
9 BAE SYSTEMS ORDNANCE :	9
10 SYSTEMS, INC., :	10 ON BEHALF OF THE DEFENDANT:
11 Defendant. :	11 JEFFREY J. GOLIMOWSKI, ESQUIRE
12 - - - - -x	12 WOMBLE BOND DICKINSON (US) LLP
13	13 8350 Broad Street
14 Continued Deposition of KELLY BATE	14 Suite 1500
15 Conducted Virtually	15 Tysons, VA 22102
16 Friday, September 23, 2022	16 (703) 394-2275
17 10:01 a.m. ET	17
18	18 ALSO PRESENT:
19	19 JOSEPH PORT, ESQUIRE
20 Job No.: 462748	20 Crystal Alexander,
21 Pages: 1 - 90	21 Planet Depos Remote Tech
22 Reported By: Victoria Lynn Wilson, RMR, CRR	22

2	4
1 Continued Deposition of KELLY BATE, conducted	1 C O N T E N T S
2 virtually.	2 EXAMINATION OF KELLY BATE PAGE
3	3 By Mr. Parrott 6
4	4 E X H I B I T S
5	5 (Attached to transcript)
6	6 BATE EXHIBIT PAGE
7	7 Exhibit 669 3/17/16 Email Chain 11
8	8 Exhibit 670 4/14/16 Email Chain 17
9 Pursuant to notice, before Victoria Lynn	9 Exhibit 671 4/19/16 Email Chain 27
10 Wilson, Registered Merit Reporter, Certified	10 Exhibit 672 4/18/16 Email Chain 31
11 Realtime Reporter, Notary Public in and for the	11 Exhibit 673 9/1/16 Email Chain 34
12 State of Maryland.	12 Exhibit 674 5/12/16 Email Chain 39
13	13 Exhibit 675 3/3/16 Email Chain 41
14	14 Exhibit 676 7/21/16 Email Chain 44
15	15 Exhibit 677 7/19/16 Email Chain 44
16	16 Exhibit 678 7/27/17 Email Chain 46
17	17 Exhibit 679 12/21/17 Email Chain 48
18	18 Exhibit 680 7/7/16 Email Chain 52
19	19 Exhibit 681 8/24/16 Email Chain 55
20	20 Exhibit 682 10/5/16 Email Chain 58
21	21 Exhibit 683 11/22/16 UCO 63
22	22 Exhibit 684 3/30/17, PO Rev. 8, Mod. 7 68

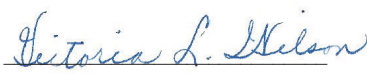

Transcript of Kelly Bate, Continued  
September 23, 2022

11 (41 to 44)

41	<p>1 document. Why did you ask her not to share the</p> <p>2 document?</p> <p>3 <b>A I do not recall.</b></p> <p>4 MR. PARROTT: If the witness could open</p> <p>5 folder number 11, which we'll mark Exhibit 675.</p> <p>6 (Bate Exhibit 675 was marked for</p> <p>7 identification and is attached to the transcript.)</p> <p>8 Q There's just two emails here between you,</p> <p>9 Ms. Bate, and Mr. Dixon from Fluor. Could you</p> <p>10 take a moment to review the two emails.</p> <p>11 <b>A Okay.</b></p> <p>12 Q So, the subject matter of this email is</p> <p>13 the change proposal for the boiler facility</p> <p>14 relocation, in particular phase two, the</p> <p>15 construction, and you advised Lura here that you</p> <p>16 want to see the proposal as a delta and not as a</p> <p>17 re-price.</p> <p>18 Why did you want to see the proposal as a</p> <p>19 delta? Well, first of all, what did you mean by</p> <p>20 "delta"?</p> <p>21 <b>A It would have been clarifying between a</b></p> <p>22 <b>bottoms-up proposal and a change proposal. So, I</b></p>	43	<p>1 Q If the temporary facility was never</p> <p>2 designed, how could you determine what the change</p> <p>3 in scope would be?</p> <p>4 MR. GOLIMOWSKI: Objection.</p> <p>5 <b>A It would be the differences between the</b></p> <p>6 <b>two scopes of work.</b></p> <p>7 MR. GOLIMOWSKI: I also want to object to</p> <p>8 this document and in whole for the record. This</p> <p>9 was -- an exact copy of this document was produced</p> <p>10 by Fluor, meaning that Fluor was in possession of</p> <p>11 this document prior to deposing Ms. Bate</p> <p>12 previously. That exact copy is Fluor 00400058.</p> <p>13 Q Is it your understanding that there was</p> <p>14 actually a scope of work for the temporary</p> <p>15 facility from which one could make that delta</p> <p>16 pricing approach?</p> <p>17 MR. GOLIMOWSKI: Objection.</p> <p>18 <b>A My understanding was that there was an</b></p> <p>19 <b>original statement of work and the permanent</b></p> <p>20 <b>facility was a different statement of work.</b></p> <p>21 Q May I direct your attention, Ms. Bate, to</p> <p>22 folder number 12.</p>
42	<p>1 <b>wanted Fluor to submit a change proposal as</b></p> <p>2 <b>specified in -- I think it's Bar Table 15-2, where</b></p> <p>3 <b>you demonstrate that the cost being submitted</b></p> <p>4 <b>above and beyond what's already on contract are</b></p> <p>5 <b>the result of the change.</b></p> <p>6 Q Ms. Bate, do you know whether any work was</p> <p>7 ever performed on the design of the temporary</p> <p>8 facility?</p> <p>9 MR. GOLIMOWSKI: Objection. That doesn't</p> <p>10 have anything to do with this document, counsel.</p> <p>11 <b>A I don't recall.</b></p> <p>12 Q Well, if -- if no work is done on the</p> <p>13 temporary design and, of course, no work is done</p> <p>14 on a temporary construction, do you think it's</p> <p>15 reasonable for you to be asking in this document</p> <p>16 for a delta pricing approach?</p> <p>17 <b>A I do. If -- if a contract has been</b></p> <p>18 <b>executed for base scope and we're making a change</b></p> <p>19 <b>to that, both Fluor and BAE Systems would be held</b></p> <p>20 <b>accountable for original pricing and would only</b></p> <p>21 <b>have the opportunity to recover costs that are the</b></p> <p>22 <b>direct result of the -- the change to scope.</b></p>	44	<p>1 (Bate Exhibit 676 was marked for</p> <p>2 identification and is attached to the transcript.)</p> <p>3 <b>A Okay.</b></p> <p>4 Q Do you recall the work on the boiler</p> <p>5 project that was the subject of this notice of</p> <p>6 differing site condition?</p> <p>7 <b>A I do not.</b></p> <p>8 Q When you reflect in your email of</p> <p>9 July 21st that this was, indeed, a differing site</p> <p>10 condition, do you have any reason to believe</p> <p>11 that -- or have you changed your mind at this</p> <p>12 point?</p> <p>13 MR. GOLIMOWSKI: Objection.</p> <p>14 <b>A I'm unclear on what differing site</b></p> <p>15 <b>condition we're referring to here.</b></p> <p>16 Q Well, why don't we open up folder 13 --</p> <p>17 first, I didn't mark folder 12, which should be</p> <p>18 676. And now 13 is going to be 677.</p> <p>19 (Bate Exhibit 677 was marked for</p> <p>20 identification and is attached to the transcript.)</p> <p>21 Q See if that refreshes your recollection as</p> <p>22 to the differing site condition that you described</p>

Transcript of Kelly Bate, Continued  
September 23, 2022

23 (89 to 92)

<p style="text-align: right; margin-right: 50px;">89</p> <p>1           ACKNOWLEDGEMENT OF DEPONENT</p> <p>2           I, KELLY BATE, do hereby acknowledge that</p> <p>3 I have read and examined the foregoing testimony,</p> <p>4 and the same is a true, correct and complete</p> <p>5 transcription of the testimony given by me, and</p> <p>6 any corrections appear on the attached Errata</p> <p>7 sheet signed by me.</p> <p>8</p> <p>9</p> <p>10</p> <p>11 _____</p> <p>12       (DATE)               (SIGNATURE)</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	
<p style="text-align: right; margin-right: 50px;">90</p> <p>1    CERTIFICATE OF SHORTHAND REPORTER-NOTARY PUBLIC</p> <p>2           I, Victoria L. Wilson, the officer before</p> <p>3 whom the foregoing deposition was taken, do hereby</p> <p>4 certify that the foregoing transcript is a true</p> <p>5 and correct record of the testimony given; that</p> <p>6 said testimony was taken by me stenographically</p> <p>7 and thereafter reduced to typewriting under my</p> <p>8 direction; that reading and signing was not</p> <p>9 discussed; and that I am neither counsel for,</p> <p>10 related to, nor employed by any of the parties to</p> <p>11 this case and have no interest, financial or</p> <p>12 otherwise, in its outcome.</p> <p>13       IN WITNESS WHEREOF, I have hereunto set my</p> <p>14 hand and affixed my notarial seal this 5th day of</p> <p>15 October, 2022.</p> <p>16 My commission expires February 3, 2024.</p> <p>17</p> <p>18 </p> <p>19 </p> <p>20 VICTORIA L. WILSON</p> <p>21 NOTARY PUBLIC IN AND FOR</p> <p>22 THE STATE OF MARYLAND</p>	